

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
DR. JUDY WOOD on behalf of the §
UNITED STATES OF AMERICA §
§
Plaintiff, §
§
vs. §
§
SCIENCE APPLICATIONS §
INTERNATIONAL CORP.; APPLIED §
RESEARCH ASSOCIATES, INC.; §
BOEING, NuSTATS; COMPUTER §
AIDED ENGINEERING ASSOCIATES, §
INC.; DATASOURCE, INC.; §
GEOSTAATS, INC.; GILSANZ §
MURRAY STEFICEK LLP; HUGHES §
SSOCIATES, INC.; AJMAL ABBASI; §
EDUARDO KAUSEL; DAVID PARKS; §
DAVID SHARP; DANIELE VENEZANO; §
JOSEF VAN DYCK; KASPAR WILLIAM; §
ROLF JENSEN & ASSOCIATES, INC.; §
ROSENWASSER/GROSSMAN §
CONSULTING ENGINEERS, P.C.; §
SIMPSON GUMPERTZ & HEGER, INC.; §
S. K. GHOSH ASSOCIATES, INC.; §
SKIDMORE, OWINGS & MERRILL, §
LLP; TENG & ASSOCIATES, INC.; §
UNDERWRITERS LABORATORIES, §
INC.; WISS, JANNEY, ELSTNER §
ASSOCIATES, INC.; AMERICAN §
AIRLINES; SILVERSTEIN PROPERTIES; §
and UNITED AIRLINES, §
§
Defendants. §

Case No. 07CV3314

**DECLARATION OF PHILIP
SEMPREVIVO**

-----X

I, **PHILIP SEMPREVIVO**, an attorney duly admitted to the bar of this Court, declare pursuant to 28 U.S. C. § 1746 and under penalty of perjury under the laws of the United States of America, that the following statements are true and correct:

1. I am a member of Biedermann, Reif, Hoenig & Ruff, P.C., attorneys for defendants UNDERWRITERS LABORATORIES (“UL”) in this lawsuit brought pursuant to the False Claims Act. I have reviewed the pleadings and our files in this matter and, based on our analysis of the same, I am familiar with the facts set forth herein.

2. I submit this declaration in support of defendants UL motion to dismiss the Complaint, pursuant to Rules 12(b)(1), 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, by adopting and incorporating co-defendant Applied Research Associates, Inc.’s (“Applied Research”) motion to dismiss on the same grounds.

3. Plaintiff filed the Amended Complaint (the “Complaint”) on December 28, 2007 bringing claims pursuant to the False Claims Act. The Complaint alleges, in wholly conclusory manner, that defendants manipulated and provided false information to the United States Government during the investigation of the September 11, 2001 events conducted by National Institute of Standards and Technology (“NIST”).

4. Defendant UL is a not-for-profit corporation in the State of Delaware, with its principal place of business located at 333 Pfingsten Road, Northbrook, Illinois. It engages in the examination and testing of representative samples of products, submitted to it by manufactures in order to determine whether the samples so submitted comply with Defendant, Underwriters Laboratories, Inc.’s applicable Standards and Requirements.

5. UL provided fire testing consulting services to the National Institute of Standards and Technology (NIST) in relation to NIST's building and fire safety investigation of the September 11, 2001 WTC disaster.

6. Plaintiff's Complaint fails to allege specific actions and/or omissions attributable to defendant UL.

7. UL adopts the arguments set forth in ARA's motion and supporting memorandum of law (the "ARA Motion") as they are equally applicable to UL and, thus, are incorporated herein by reference. UL also seeks the same relief requested in the ARA Motion upon the same grounds made therein, and further seeks an award of attorneys' fees and expenses due to the frivolous nature of Plaintiff/Relator's complaint.

8. In short, this action should be dismissed as against UL because (i) for the reasons outlined in Section II of the ARA Motion, this Court lacks subject matter jurisdiction over Relator's FCA claims; (ii) for the reasons outlined in Section III of the ARA Motion, Relator's Complaint fails to state a claim upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6); and for the reasons set forth in Section IV of the ARA Motion, Relator's Complaint must be dismissed for failure to plead fraud with particularity pursuant to Fed. R. Civ. P. 9(b).

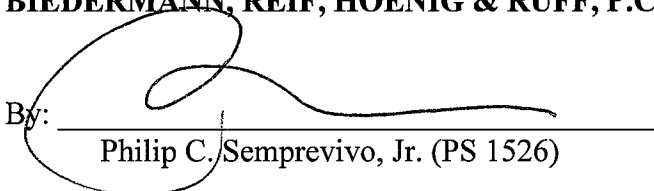
9. In addition, for the reasons outlined in Section V of the ARA Motion, Relator's claims should be dismissed as frivolous; and, for the reasons outlined in Section VI of the ARA Motion, attorneys' fees and expenses should be awarded to UL pursuant to 31 U.S.C. Section 3730(d)(4). As discussed more fervently in the ARA Motion, the Relator's Complaint lacks any merit in both fact and law. Clearly, Relator's Complaint has no chance of success as it is premised upon outlandish theories and baseless allegations.

WHEREFORE, for all the foregoing reasons, in addition to all of the arguments set forth in the ARA Motion, defendant Underwriters Laboratories, Inc. seeks an Order:

- (A) dismissing the complaint of the Plaintiff/Relator with prejudice;
- (B) awarding Underwriters Laboratories, Inc. Attorneys' fees and expenses; and
- (C) granting such other relief as this Court deems just and proper.

Dated: New York, New York
February 20, 2008

Respectfully submitted,
BIEDERMANN, REIF, HOENIG & RUFF, P.C.

By: 
Philip C. Semprevivo, Jr. (PS 1526)

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TO: ALL COUNSEL ON SERVICE LIST

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Case No. 07CV3314

**CERTIFICATE OF
SERVICE**

-----X

The undersigned certifies that on February 20, 2008, a Notice of Motion to Dismiss the Complaint, Declaration of Philip Semprevivo in Support and Memorandum of Law were filed

electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following named counsel of record:

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Dated: New York, New York
February 20, 2008



Phil Semprevivo